

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

BEFORE Brands, Inc. d/b/a	)	
SpoonfulONE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 21-1706-CFC
	)	
Prollergy Corporation d/b/a Ready,	)	
Set, Food!,	)	
	)	
Defendant.	)	

**STIPULATION AND [PROPOSED] ORDER**  
**GOVERNING PLAINTIFFS' SECOND AMENDED COMPLAINT**

WHEREAS, on February 25, 2022, Plaintiff BEFORE Brands, Inc. d/b/a SpoonfulONE (“SpoonfulONE”) filed its First Amended Complaint. D.I. 6;

WHEREAS, Defendant Prollergy Corporation d/b/a Ready, Set, Food! (“RSF”) identified an alleged standing issue by letter dated February 11, 2022, but the First Amended Complaint did not make any changes to the named plaintiffs;

WHEREAS, U.S. Patent No. 11,278,615 (“the ’615 patent”) issued on March 22, 2022;

WHEREAS, on April 28, 2022, RSF filed its motion to dismiss the First Amended Complaint. D.I. 10, which included as a ground that SpoonfulONE lacked

standing without the Board of Trustees of the Leland Stanford Junior University (“Stanford”);

WHEREAS, RSF’s motion was briefed, D.I. 11, 15, 16, and RSF requested oral argument on the motion, D.I. 17;

WHEREAS, SpoonfulONE now seeks leave to amend its First Amended Complaint to add a claim for infringement of the ’615 patent and to add Stanford as a plaintiff;

WHEREAS, RSF asked SpoonfulONE to agree to pay RSF’s fees for its motion to dismiss under Fed. R. Civ. P. 15(a) as a condition of allowing the proposed amended pleading due to SpoonfulONE’s failure to make any argument in support of its standing to file this action while forcing RSF to engage in briefing related to the First Amended Complaint;

WHEREAS, SpoonfulONE declined RSF’s request for fees, replying that the proposed amended complaint adds infringement allegations on a new patent not subject to the pending Motion to Dismiss and that RSF moved to dismiss on multiple grounds unrelated to standing, none of which would be impacted by the amendment;

WHEREAS, RSF contends that SpoonfulONE should pay RSF’s fees for briefing the motion to dismiss, a contention with which SpoonfulONE disagrees; and

WHEREAS, to preserve resources and avoid additional briefing at this stage, RSF will not request fees at this time but reserves its right to make that argument later in this case either pursuant to the Court's inherent authority, Section 285, or otherwise;

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto, and subject to the approval of the Court, as follows:

1. SpoonfulONE may file its Second Amended Complaint,
2. RSF will have 21 days after SpoonfulONE files its Second Amended Complaint to move, answer, or respond to the Second Amended Complaint, and
3. To the extent that RSF moves to dismiss the Second Amended Complaint:
  - a. RSF's Opening Brief shall not exceed 5,500 words (exclusive of the cover page, table of contents, table of authorities, and signature block),
  - b. SpoonfulONE's Answering Brief shall not exceed 5,500 words (exclusive of the cover page, table of contents, table of authorities, and signature block), and
  - c. RSF's Reply Brief shall not exceed 2,750 words (exclusive of the cover page, table of contents, table of authorities, and signature block).

/s/ Karen E. Keller

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Dated: August 15, 2022

/s/ Griffin A. Schoenbaum

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*Attorneys for Defendant Prollergy  
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SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Chief United States District Judge